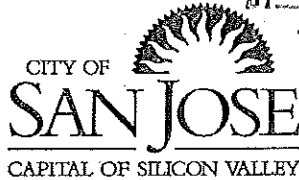


POSTED ON 9-3-08 THROUGH 9-23-08
IN THE OFFICE OF THE COUNTY CLERK-RECORDER
REGINA ALCOMENDRAS, COUNTY CLERK

ENDORSED

SEP 03 2008



BY [Signature] DEPUTY
VERONICA AGUIRRE

REGINA ALCOMENDRAS, County Clerk-Recorder
Santa Clara County
By [Signature] Deputy

Department of Planning, Building and Code Enforcement

JOSEPH HORWEDEL, DIRECTOR

**PUBLIC NOTICE
INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION
CITY OF SAN JOSÉ, CALIFORNIA**

Project File Number, Description, and Location:

PDC07-081 - Planned Development Rezoning from HI Heavy Industrial to A(PD) Planned Development to allow up to 259 multi-family residential units over a podium garage on an approximately 5.11 gross acre site located at/on the east side of Campbell Avenue approximately 2,000 feet northwesterly of Newhall Street (1270 Campbell Avenue), APN 230-14-026. (Sobrato Development, Owner/Developer) **Council District: 3**

California State Law requires the City of San José to conduct environmental review for all pending projects that require a public hearing. Environmental review examines the nature and extent of any potentially significant adverse effects on the environment that could occur if a project is approved and implemented. The Director of Planning, Building & Code Enforcement would require the preparation of an Environmental Impact Report if the review concluded that the proposed project could have a significant unavoidable effect on the environment. The California Environmental Quality Act (CEQA) requires this notice to disclose whether any listed toxic sites are present. The project location **does** contain a listed toxic site.

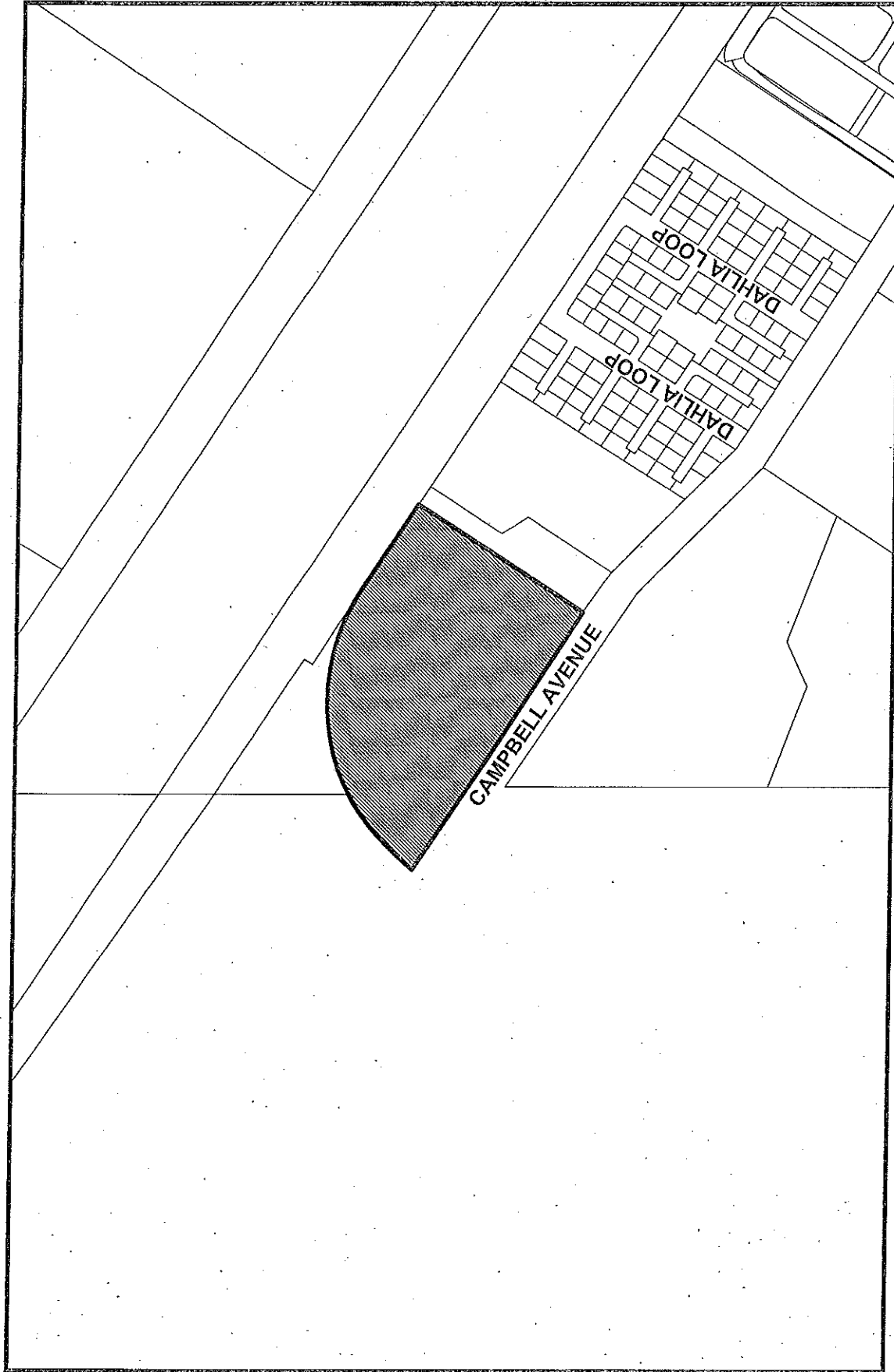
Based on an initial study, the Director has concluded that the project described above will not have a significant effect on the environment. We have sent this notice to all owners and occupants of property within 1,000 feet of the proposed project to inform them of the Director's intent to adopt a Mitigated Negative Declaration for the proposed project on **September 24, 2008**, and to provide an opportunity for public comments on the draft Mitigated Negative Declaration. The public review period for this draft Mitigated Negative Declaration begins on **September 4, 2008** and ends on **September 23, 2008**.

A public hearing on the project described above is tentatively scheduled for **October 8, 2008 at 6:30 p.m.** in the City of San Jose Council Chambers, 200 East Santa Clara Street, San Jose, CA 95113. The draft Mitigated Negative Declaration, initial study, and reference documents are available for review under the above file number from 9:00 a.m. to 5:00 p.m. Monday through Friday at the City of San Jose Department of Planning, Building & Code Enforcement, City Hall, 200 East Santa Clara Street, San José CA 95113-1905. The documents are also available at the Dr. Martin Luther King, Jr. Main Library, 150 E. San Fernando St, San José, CA 95112, and the **Rose Garden Branch Library**, San José, CA, and online at <http://www.sanjoseca.gov/planning/eir/MND.asp>. Adoption of a Negative Declaration does not constitute approval of the proposed project. The decision to approve or deny the project described above will be made separately as required by City Ordinance. For additional information, please call **Jeannie Hamilton, Project Manager** at (408) 535-7850.

Joseph Horwedel, Director
Planning, Building and Code Enforcement

Circulated on: September 4, 2008

Akemi Sanchez
Deputy



File No: PDC07-081

District: 3

Quad No: 66

Scale: 1"= 300'

Map Created On: 10/09/2007

Noticing Radius: 500 feet



DRAFT
MITIGATED NEGATIVE DECLARATION

The Director of Planning, Building and Code Enforcement has reviewed the proposed project described below to determine whether it could have a significant effect on the environment as a result of project completion. "Significant effect on the environment" means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.

NAME OF PROJECT: PDC07-081 – 1270 CAMPBELL AVENUE

PROJECT FILE NUMBER: PDC07-081

PROJECT DESCRIPTION: Planned Development Rezoning from HI Heavy Industrial Zoning District to A(PD) Planned Development Zoning District, and subsequent development permits and subdivision maps, to allow up to 259 multi-family residential units over a podium garage on a 5.11 gross acre site.

PROJECT LOCATION & ASSESSORS PARCEL NO.: east side of Campbell Avenue, approximately 2,000 feet northwesterly of Newhall Street (1270 Campbell Avenue); APN 230-14-026

COUNCIL DISTRICT: 3

APPLICANT CONTACT INFORMATION: SOBRATO DEVELOPMENT, Attn: TIM STEELE
10600 N DEANZA BLVD, CUPERTINO CA 95014, (408)446-0700

FINDING

The Director of Planning, Building & Code Enforcement finds the project described above will not have a significant effect on the environment in that the attached initial study identifies one or more potentially significant effects on the environment for which the project applicant, before public release of this draft Mitigated Negative Declaration, has made or agrees to make project revisions that clearly mitigate the effects to a less than significant level.

MITIGATION MEASURES INCLUDED IN THE PROJECT TO REDUCE POTENTIALLY SIGNIFICANT EFFECTS TO A LESS THAN SIGNIFICANT LEVEL

- I. **AESTHETICS** – The project will not have a significant impact on this resource, therefore no mitigation is required.

II. AGRICULTURE RESOURCES – The project will not have a significant impact on this resource, therefore no mitigation is required.

III. AIR QUALITY – The project will have a significant impact on this resource, therefore the project proposes to implement the following mitigation measures to reduce the impacts of demolition and construction activities to a less than significant level:

- MM AQ-1:** Water all active construction areas at least twice daily and more often during windy periods to prevent visible dust from leaving the site.
- MM AQ-2:** Active areas adjacent to existing land uses shall be kept damp at all times or shall be treated with non-toxic stabilizers or dust palliatives.
- MM AQ-3:** Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard.
- MM AQ-4:** Pave, apply water at least three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites.
- MM AQ-5:** Sweep daily, or more often if necessary (preferably with water sweepers) to prevent visible dust from leaving the site all paved access roads, parking areas, and staging areas at construction sites; water sweepers shall vacuum up excess water to avoid runoff-related impacts to water quality.
- MM AQ-6:** Sweep streets daily, or more often if necessary (preferably with water sweepers) if visible soil material is carried onto adjacent public streets.
- MM AQ-7:** Hydroseed or apply non-toxic soil stabilizers to inactive construction areas (previously graded areas inactive for ten days or more).
- MM AQ-8:** Enclose, cover, water twice daily, or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.).
- MM AQ-9:** Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
- MM AQ-10:** Replant vegetation in disturbed areas as quickly as possible.
- MM AQ-11:** Limit traffic speed on unpaved roads to 15 mph.

IV. BIOLOGICAL RESOURCES – The project will have a significant impact on this resource, therefore the project proposes to implement the following mitigation measures:

MM BIO-1.1: The proposed project shall replace trees removed at the following ratios:

Table 4.4-2 Standard Tree Replacement Requirements		
Diameter of Tree to be Removed	Non-Native	Minimum Size of Each Replacement Tree
18 inches or greater	4:1	24-inch box
12 – 18 inches	2:1	24-inch box
Less than 12 inches	1:1	15-gallon container
Notes: X:X = Tree replacement to tree loss ratio Trees greater than 18-inches in diameter shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees.		

The species and exact number of trees to be planted on the site will be determined at the development permit stage, in consultation with the City Arborist and the Department of Planning, Building, and Code Enforcement. Trees for purposes of mitigation shall be planted at the above standard ratio to be determined at the permit stage.

MM BIO-1.2: If the project site does not have sufficient area to accommodate the required tree mitigation, one or more of the following measures shall be implemented, to the satisfaction of the Director of Planning, Building, and Code Enforcement, at the development permit stage:

- The size of a 15-gallon replacement tree can be increased to 24-inch box and count as two replacement trees.
- An alternative site(s) shall be identified for additional tree planting. Alternative sites may include local parks or schools or installation of trees on adjacent properties for screening purposes to the satisfaction of the Director of the Department of Planning, Building, and Code Enforcement.
- A donation of \$300 per mitigation tree to Our City Forest for in-lieu off-site tree planting in the community. These funds will be used for tree planting and maintenance of planted trees for approximately three years. A donation receipt for off-site tree planting will be provided to the Planning Project Manager prior to issuance of a development permit.

V. CULTURAL RESOURCES – The project will have a significant impact on this resource, therefore the project proposes to implement the following mitigation measures to reduce impacts to archaeological resources:

MM CULT-1.1: A systematic inspection or survey of the present ground surface will provide archaeological data regarding post-depositional disturbance levels and shall be conducted by a qualified archaeologist. An archaeological survey of the entire parcel shall be completed after the present built environment (pavement, landscaping) is removed and preparation of the ground surface for new development begins. Depending on the results of the survey, it is recommended that a monitoring program be established in order that periodic inspections of subsurface levels be coordinated to allow careful examination of vertical and horizontal soil relationships between two and eight feet (below the present surface). The monitor must be pre-approved by the Director of Planning (or his designee). After written approval, the Planning Division must be notified at least 48 hours prior to any grading or other subsurface work on the site and the applicant must provide a written protocol which stipulates the manner in which the applicant shall comply with the monitoring requirements.

MM CULT-1.2: If no resources are discovered through the ground survey, the archaeologist shall submit a report to the City's Environmental Principal

Planner verifying that the required monitoring occurred and that no further mitigation is necessary.

MM CULT-1.3: If evidence of any archaeological, cultural, and/or historical deposits is found, all work within proximity of the find shall temporarily halt so that the archaeologist can examine the find and document its provenience and nature (drawings, photographs, written description). The archaeological monitor will then direct the work to either proceed if the find is deemed to be insignificant, or instruct the work to continue elsewhere or cease until adequate mitigation measures are adopted. The archaeologist shall submit reports, to the satisfaction of the City's Environmental Principal Planner, describing the testing program and subsequent results. These reports shall identify any program mitigation that the Developer shall complete in order to mitigate archaeological impacts (including resource recovery and/or avoidance testing and analysis, removal, reburial, and curation of archaeological resources). The key elements of the treatment plan shall include the following:

- Identify scope of work and range of subsurface effects (include location map and development plan).
- Describe the environmental setting (past and present) and the historic/prehistoric background of the parcel (potential range of what might be found).
- Develop research questions goals to be addressed by the investigation (what is significant vs. what is redundant information).
- Detail field strategy used to record, recover, or avoid the finds (photos, drawings, written records, provenance data maps, soil profiles, excavation techniques, standard archaeological methods) and address research goals.
- Analytical methods (radiocarbon dating, obsidian studies, bone studies, historic artifact studies [list categories and methods for artifacts], etc.).
- Report structure, outline of document contents (draft for review, final).
- Disposition of artifacts.
- Appendices: Site records, updated site records, correspondence, consultation with Native Americans, etc. The need for burial agreement plan for Native American burials can be incorporated into the treatment plan, but must be done in consultation with Most Likely Descendents. Plan should detail goals, methods, and disposition of remains and associated artifacts.

MM CULT-1.4: In the event that human remains and/or cultural materials are found, all project-related construction shall cease within a 50-foot radius in order to proceed with the testing and mitigation measures required. Pursuant to Section 7050.5 of the Health and Safety Code and Section 5097.94 of the Public Resources Code of the State of California:

- In the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any

nearby area reasonably suspected to overlie adjacent remains. The Santa Clara County Coroner shall be notified and shall make a determination as to whether the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he shall notify the Native American Heritage Commission who shall attempt to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, then the land owner shall re-inter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.

- A final report shall be submitted to the City's Environmental Principal Planner prior to release of a Certificate of Occupancy. This report shall contain a description of the mitigation programs and its results including a description of the monitoring and testing program, a list of the resources found, a summary of the resources analysis methodology and conclusions, and a description of the disposition/curation of the resources.

VI. GEOLOGY AND SOILS – The project will not have a significant impact on this resource, therefore no mitigation is required.

VII. HAZARDS AND HAZARDOUS MATERIALS – The project will have a significant impact on this resource, therefore the project proposes the following mitigation and avoidance measures to reduce impacts from hazardous materials to a less than significant level:

MM HM-1.1: The two closed in-place USTs, located under the planned perimeter parking area, shall be removed and properly disposed of off-site as part of the proposed redevelopment. The tank shells will be segregated from the concrete and, depending on the condition of the shells, will either be recycled or disposed of as hazardous waste if there are signs of residual contamination that cause the shells to be non-recyclable. The concrete within the tanks will likely be disposed as non-hazardous waste; however the final determination for disposition will be made by qualified personnel during removal. If required to determine either recycling and/or disposal options for these materials, sampling and analysis may be completed. Any materials determined to be hazardous waste will be managed in accordance with all applicable state and federal requirements for manifesting, transportation, and disposal. Soil sampling of the excavation pits will be completed, in the event visual or olfactory evidence (i.e. discoloration of soils or odors) is present when the USTs are removed.

MM HM-1.2: Contractors working on the redevelopment project during site grading, utility installation, and removal of the closed in-place USTs, shall incorporate routine safe work practices and dust control measures and shall adhere to standard worker health and safety procedures as required

under the California Department of Occupational Safety and Health Administration (Cal-OSHA) regulations.

- MM HM-1.3:** In the event that evidence of unanticipated hazardous materials conditions is encountered, the contractor shall halt work and contact the applicant to arrange for oversight by a qualified engineer or geologist. The applicant shall submit a report to the appropriate regulatory agency and the City's Environmental Compliance Officer, for review and approval, detailing the assessment of the encountered materials and the need for additional mitigation.

VIII. HYDROLOGY AND WATER QUALITY – The project will have a significant impact on this resource, therefore the project proposes to implement the following mitigation measures:

- MM HYD-3.1:** Comply with the City of San José *Special Flood Hazard Area Regulations* and City's Floodplain Management Ordinance, including providing certification of the lowest floor elevation on N.G.V.D datum by a registered professional engineer or surveyor to the Director of Public Works, as set forth in Section 17.08.310.
- MM HYD-3.2:** Obtain an Elevation Certificate (FEMA Form 81-31) based on construction drawings prior to issuance of a building permit. An Elevation Certificate based on finished construction is also required prior to issuance of an occupancy permit.
- MM HYD-3.3:** Elevate building support utility systems such as HVAC, electrical, plumbing, air conditioning equipment, including ductwork, and other service facilities above the base flood elevation or otherwise protected from flood damage.

IX. LAND USE AND PLANNING – The project will not have a significant impact on this resource, therefore no mitigation is required.

The project proposes the following mitigation measure to reduce the project's land use impacts to a less than significant level:

- MM LU-1.1:** The project proposes to pay in-lieu housing fees to the City of Santa Clara to provide for affordable housing in the city.

X. MINERAL RESOURCES – The project will not have a significant impact on this resource, therefore no mitigation is required.

XI. NOISE – The project shall incorporate building sound insulation to meet the requirements of the California Building Code to reduce interior noise levels to 45 dBA or lower, using standard construction techniques. Prior to issuance of occupancy permits, building plans for all units will be checked by a qualified acoustical consultant to ensure that noise levels are

attenuated sufficiently. All units shall have forced air ventilation systems to allow the windows to remain closed so that an interior noise level of 45 dBA can be achieved.

The project shall incorporate the following measures to reduce the interior noise impacts of the project to a less than significant level:

MM NV-1.1: Project-specific acoustical analyses are required by the City of San José to insure that interior noise levels will be reduced to 45 dBA DNL or lower. It is also recommended that maximum interior noise levels be limited to 50 dBA L_{max} within bedrooms and 55 dBA L_{max} within other habitable rooms to avoid sleep disturbance and activity interference indoors. Building sound insulation requirements would need to include the provision of forced-air mechanical ventilation for all new units, so that windows could be kept closed at the occupant's discretion to control noise. Special building construction techniques (e.g., sound-rated windows and building facade treatments) may be required for new residential uses adjacent to the railroad. These treatments include, but are not limited to, sound rated windows and doors, sound rated wall constructions, acoustical caulking, etc. The specific determination of what treatments are necessary will be conducted on a unit-by-unit basis. Results of the analysis, including the description of the necessary noise control treatments, will be submitted to the City along with the building plans and approved prior to issuance of a building permit. Feasible construction techniques such as these would adequately reduce average interior noise levels to 45 dBA DNL or lower and maximum interior noise levels to 50 dBA L_{max} in bedrooms and 55 dBA L_{max} in other habitable rooms.

The project shall implement the following mitigation measure to reduce construction noise impacts to nearby sensitive receptors:

MM NV-2.1: At the final design phase, a qualified acoustical consultant shall review the construction plans to ensure that the placement of a portable rock crusher on the site will reduce construction noise levels to 60 dBA L_{eq} at the nearest sensitive receivers to the east. In the event rock crusher noise levels would not be reduced to 60 dBA L_{eq} at noise sensitive receivers based on the location of intervening structures, the acoustical consultant shall identify the appropriate height and location of recycled material stockpiles to be maintained during crushing activities in order to attenuate noise to the maximum amount feasible. The required construction noise reduction measures shall be printed on all construction documents, contracts, and project plans; and be reviewed by the City's Environmental Principal Planner prior to issuance of building permits.

XII. POPULATION AND HOUSING – The project will not have a significant impact on this resource, therefore no mitigation is required.

- XIII. PUBLIC SERVICES** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- XIV. RECREATION** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- XV. TRANSPORTATION / TRAFFIC** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- XVI. UTILITIES AND SERVICE SYSTEMS** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- XVII. MANDATORY FINDINGS OF SIGNIFICANCE** – The project will not substantially reduce the habitat of a fish or wildlife species, be cumulatively considerable, or have a substantial adverse effect on human beings, therefore no additional mitigation is required.

PUBLIC REVIEW PERIOD

Before 5:00 p.m. on **September 23, 2008**, any person may:

Review the Draft Mitigated Negative Declaration (MND) as an informational document only; or

Submit written comments regarding the information, analysis, and mitigation measures in the Draft MND. Before the MND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft MND, if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final MND.

Joseph Horwedel, Director
Planning, Building and Code Enforcement

Circulated on: September 4, 2008

Alexi Christen
Deputy

Adopted on: _____

Deputy

MND/JAC 8/26/05